IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.65 of 1992
Date of decision:23.11.2006

The Commissioner of Income Tax, Jalandhar

....Petitioner

versus

Shri Subash Chander C/o M/s Lucky Iron Store, Jalandhar.

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Dr. N.L.Sharda, Advocate, for the revenue.

JUDGMENT:

Following questions of law have been referred for the opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar, (for short, 'the Tribunal') arising out of its order dated 31.7.1990 in ITA No.1513(ASR)/1989, for the assessment year 1981-82:-

"1. Whether on the facts and in the circumstances of the case, the Tribunal is right in law in holding that assessment framed for the first time on 31.5.1985, though after the issue of notice under section 148, relating to the assessment year 1981/82 cannot be regarded as a "Regular Assessment" even after the introduction of explanation 2 to section 139(8) and introduction of sub section (6) to section 215 by the Taxation Laws (Amendment) Act, 1984 w.e.f 1.4.1985, according to which the assessment made under section 147 for the first time shall be regarded as a "Regular Assessment"?

2. Whether on the facts and in the circumstances of the case the Tribunal was right in law in cancelling the order passed by the Commissioner of Income tax, Jalandhar under section 263 of the Income Tax Act, 1961 by holding that the chargeability of interest under section 139(8) and 215/217 of the Act was a mistake apparent

from the records so as to justify the action of the ITO in passing order under section 154 of the Income Tax Act, 1961?"

Learned counsel for the revenue relies upon judgment of the Hon'ble Supreme Court in **M/s. K.Govindan and Sons v. CIT, Cochin**, AIR 2001 SC 254 and submits that assessment after issuance of notice under section 148 of the Income tax Act, 1961 (for short, 'the Act') was also regular assessment for purposes of Sections 139(8) and 215/217 of the Act.

None appears for the assessee.

This Court has already gone into this question, inter-alia, in ITR Nos.131 and 133 of 1995, **The Commissioner of Income tax, Haryana, Rohtak v. M/s. Vijay Kumar HUF V& PO Nagina, Gurgaon**, decided on 1.11.2006, wherein, following judgment of the Hon'ble Supreme Court in **M/s. K.Govindan's** case (supra), the question was answered in favour of the revenue and against the assessee.

Accordingly, the question referred is answered in favour of the revenue and against the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

November 23, 2006
'gs'

(Rajesh Bindal)
Judge